

fashion of the first books on the bankruptcy law, the first books on income tax, the first books on interstate commerce, workmen's compensation, and other statutory innovations. But the work is done on the basis of so thorough a study of common law arbitration and this is so minutely compared with statutory innovations, that there can be no doubt of its usefulness or well-merited influence at this crucial stage in the history of American commercial arbitration that lies ahead of us.

Cambridge, Mass.

NATHAN ISAACS.

The Case Method of Studying Law. By Jacob Henry Landman.
New York, G. A. Jennings Co., 1930. pp. 108. \$2.

THE case method of law teaching has been so successful, judged by practical results, that for many years after the battle against text-book instruction had been won law teachers were uncritical of their pedagogical methods. Recently, however, the feeling has been growing that the case method, too, as it was actually employed with large classes, left much to be desired. The increasingly critical attitude of law teachers toward current teaching is perhaps the most encouraging thing in legal education today. In this volume we have an examination of law teaching made by an author having legal training but by profession a college teacher. As Dean Sommers says in his introduction, the book might well have been entitled "A College Teacher Looks at Law Training." The author's general thesis is about as follows: Law training should be scientific; the case method is not scientific; but the problem method advocated by the author is; furthermore it affords opportunity to enrich the legal data with pertinent social and economic facts.

As indicating a process of development of the writer and perhaps others, the book is interesting and stimulating. It should also have the effect of arousing any law teachers who have not been affected by the newer critical attitude in law. Beyond this the appeal of the book is limited. Its prospective audience is obviously the law professor and it does not purport to be a general expository statement of legal education. It is an argument, and one that for the most part overlooks the attempts at improvement of method which are now being made. In fact the author seems largely unfamiliar with much of modern legal education. Perhaps the most effective part of the book is its criticism of the case method. This is weakened, however, by an apparent lack of appreciation of the part administrative matters, such as the size of the class, play in rendering the case method ineffective.

The author's suggested solution, like all simple solutions of somewhat difficult problems, seems naive. Law schools today employ the problem method in law review work, in moot court briefs, in individual student research and even to a considerable extent in the modern casebooks. In reality case method and project method are likely to become rather closely assimilated in practice, and either may be comparatively ineffective in result. One may suggest that more important than the name of the method used or the attempt to make it conform to something after all very considerably different—experiment in the physical sciences—is the relation of the size of the student body to the size of the faculty and the general physical equipment of the school. In classes of two to four hundred per instructor the problem method would surely break down even more than the case method; while in small classes resort is made naturally to the problem method.

The author's argument for the use of social as well as legal data in the decision of law cases will, I think, appeal to most law teachers at the present day. But the process is actually slow and difficult. Here, too,

administrative difficulties have an importance which Professor Landman has not indicated. Nevertheless, exhortation is probably useful to reassure the doubters.

New Haven, Conn.

CHARLES E. CLARK.

The Growth and Decadence of Constitutional Government. By J. Allen Smith. New York, Henry Holt and Co., 1930. pp. xvii, 300. \$3.

THE appearance of a book by the late J. Allen Smith offers a belated opportunity to recognize his unique work. In 1907 his *Spirit of the American Government* failed to win from bewildered reviewers the repute it deserved. Another chance at recognition did not come, for *Growth and Decadence of Constitutional Government* was still in manuscript at his death. He was primarily a teacher; the best of his efforts went into blazing new trails in the class-room; only two unpretentious volumes remain to bear evidence to the quality of a sincere, daring, and original mind. Between the dates of the two studies lies more than two decades of intellectual history. During this period the ways of American government have been among the most significant of inquiries; and Smith was the pioneer in seeking a realistic understanding of the constitution.

A knowledge of the state of inquiry at the time is essential to an appreciation of his distinctive contribution. In 1907 the study of the constitution had hardly been touched by the current intellectual awakening. In halls of learning the document was a great text, interpreted by courts, and inviting the exegesis of scholars; out of clause and phrase, as circumstance demanded, was to be drawn the meaning packed away there by the founding fathers; the rules, precepts, principles were to be arranged into a neat, orderly, consistent, and "logical" system. Only "the analytical" and "the historical" methods invited dispute. The analyst went through his materials, following his outline point by point; the historian set down his propositions in the order of their discovery. But alike they approached static doctrine by the way of dialectic; they differed in being alternative ways towards the same truths. In public opinion, for all the outcry against officials and parties, there was a fundamentalist belief in the perfection of our system of government-in-the-abstract. In particular the constitution and its interpretation were inspired; its goodness was a matter of faith, and its operation was beyond curious inquiry. In the study of the document there was play for the intellect in neat arrangement, in the sequence of reasons, in deft distinctions and reconciliations, in subtle little problems of logomachy. But, as for the great adventure of the mind, constitutional government was formal and devout and lifeless and dull.

It was into such a world of scholarship that Smith's *American Government* came. There had been exaggerated protest and timid suggestion before, but his was the first restrained and scholarly study to replace abstract dogma with vital questions. He asked how the constitution had come into existence, who were the men that had framed it, what was the stuff in idea and institution of which it was compounded, and what specifically it was intended by its authors to accomplish. He made much of the change which had come over the country, of the transition from frontier farming to big business, the replacement of the individual by the corporation, the separation of the population into industrial groups, and the connection between vested interests and political control. He ventured to inquire how an instrument of government contrived by an eighteenth century aristocracy could be adapted to the great needs of a twentieth century democracy.